

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

)
) MDL No. 1456
)

) CIVIL ACTION: 01-CV-12257-PBS
)

) Judge Patti B. Saris
)

) Chief Magistrate Judge Marianne B. Bowler
)

PLAINTIFFS' EMERGENCY MOTION FOR A PROTECTIVE ORDER

Plaintiffs respectfully move the Court for an order establishing that (i) no more than five third party depositions can occur in any single week; (ii) no more than two third party depositions can occur on any single day; (iii) CMO No. 10's 21-day notice requirement applies to the confirmation of all third party depositions; and (iv) the depositions of Oxford Health Plan and John Deere are stayed until the week of October 2, 2004.

This motion is supported by Plaintiffs' Memorandum in Support of Plaintiffs' Emergency Motion for a Protective Order filed herewith, the Declaration of Sean R. Matt in Support of Plaintiffs' Emergency Motion for a Protective Order filed herewith, and the record and pleadings on file in this action.

Defendants have scheduled 15 depositions for the next two weeks. Because of the time-sensitive nature of this issue, Plaintiffs have filed this motion as an "emergency motion," and respectfully request that the Court expedite its ruling on this motion.

DATED: September 10, 2004

By /s/ Steve W. Berman

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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' EMERGENCY MOTION FOR A PROTECTIVE ORDER** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on September 10, 2004 via e-mail and overnight delivery to Defendants.

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